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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/762,269

01/23/2004

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EXAMINER

MAYES, MELVIN C

ART UNIT

PAPER NUMBER

1734

MAIL DATE

DELIVERY MODE

09/04/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/762,269

Applicant(s)

SLEIMAN ET AL.

Examiner

Melvin Curtis Mayes

Art Unit

1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-9,11 and 17-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5 and 17 is/are allowed.
- 6) ☒ Claim(s) 1,3,4,6-9,11 and 18-20 is/are rejected.
- 7) ☒ Claim(s) 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

(1)

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: antecedent basis for projections being “mutually exclusive” of the vacuum holes.

Claim Objections

(2)

Claim 11 is objected to because of the following informalities: “projections **each** having the same height” should read “projections **all** having the same height.” It does not make sense grammatically for “each” to have the same height. Appropriate correction is required.

Claim Rejections - 35 USC § 112

(3)

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

(4)

Claims 1, 3, 4, 6-9, 11 and 18-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claim 1 now claims projections "having a uniform height." Does this mean that each projection has a uniform or unvaried height or that all the projections have the same height. It is not clear as written what is to be encompassed by "uniform height." If Applicant means that the projection all have the same height, this should be claimed and the specification amended accordingly. For purposes of examination, "uniform height" is interpreted to mean that the projection have the same height, as set forth in the Remarks.

Claim 11 now claims a tamping face connected to said "bellows." Does this mean that the tamping face is separate from the bellows and something that is "connected" to the bellows? The Examiner requests that Applicant point in the specification where there is support for the tamping face being "connected to the bellows."

Claims 18-20 depend from cancelled claims 13 and 14.

Claim Rejections - 35 USC § 102

(5)

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(6)

Claims 1, 3, 4, 6 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by

JP 2-233340.

JP 2-233340 discloses a chuck comprising: a tamping face 6 that is movable from a retracted position to an extended tamping position (vertically movable from a label receiving position to transfer position) and having a base including a plurality of vacuum holes (air holes 6b) and a plurality of discrete projections (lines of triangular cross-section 6a) projecting outwardly from the base, the projections all having the same height, each extending over only a portion of the base and not completely surrounding the vacuum holes and the projection being mutually exclusive of the vacuum holes (See Figs 3-5) (oral translation).

The preamble language “tamping labeler for use in a labeling apparatus” as claimed in Claim 1 does not structurally distinguish the claimed tamping face from the chuck having tamping face with holes and projections of JP 2-233340.

As claimed in Claim 3, the projections are arranged such that each hole is at least partially surrounded by at least one projection.

As claimed in Claim 4, at least some of the projections are ridges.

As claimed in Claim 6, at least some of the projections are domes.

As claimed in Claim 9, the tamping face is textured and the projections result from the texture of the tamping face.

Claim Rejections - 35 USC § 103

(7)

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

(8)

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over WO 03/024807 in view of Ijiri et al. 5,100,491.

WO 03/024807 disclose a bellows label applicator for a labelling apparatus comprising: a bellows 10; and a separate tip part 13 (tamping face) attached (connected) to the bellows and having bores 14 to allow airflow into and out of the bellows (vacuum holes). The label applicator functions in a labelling apparatus in a manner as disclosed in EP 0113256 (pg. 1-4). WO '807 does not disclose providing the tamping face with a plurality of projections each having the same height and mutually exclusive of the vacuum holes.

Ijiri et al. teach that a label suction surface for applying labels is provided with a regularly or irregularly jogging part formed on the surface thereof and suction holes disposed enclosed with protruding points of the jogging part so as to prevent clusters of air between the label and suction surface and allow the label to attach uniformly and tightly to the surface to which it is to be applied (col. 3, line 20 – col. 4, line 30). As shown in Figures 1(f) and 1(g), the suction holes 4 are surrounded by square-shaped protuberances 3b, some of which completely surround a suction hole, which are of the same height and mutually exclusive of the suction holes (the protuberance 3b surrounding hole 4 does not form the hole but is spaced from the hole by depression 3a).

It would have been obvious to one of ordinary skill in the art to have modified the bellows label applicator of WO /807 by providing the tip part with square-shaped projections having the same height and mutually exclusive of the vacuum holes, as taught by Ijiri et al., to prevent clusters of air between the label and suction surface and to allow the label to attach

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uniformly and tightly to the surface to which it is to be applied. One of ordinary skill in the art would have recognized that providing projections on the tip part of the bellows label applicator projecting outwardly from the surface of the tip part and spaced from (mutually exclusive of) the vacuum holes would have provided the benefits of preventing clusters of air between the label and suction surface of the tip part of the bellows label applicator and of allowing the label to attach uniformly and tightly to the surface to which it is to be applied, as taught by Ijiri et al. The particular technique of using projections to prevent air clusters and improve labelling, as taught by Ijiri et al, would have been recognized by one of ordinary skill in the art as an improvement that can be applied to bellows label applicators to yield predictable results and as a technique for improving label applicators that was part of the ordinary capabilities of a person of ordinary skill in the art.

Allowable Subject Matter

(9)

Claims 7 and 8 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

(10)

Claims 5 and 17 are allowed.

Response to Arguments

(11)

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection, applied because of the amendments to the claims.

Conclusion

(12)

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin Curtis Mayes whose telephone number is 571-272-1234.

The examiner can normally be reached on Mon-Fri 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Phillip C. Tucker can be reached on 571-272-1095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Melvin Curtis Mayes
Primary Examiner
Art Unit 1734

MCM
August 30, 20007